

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PACIOTTI S.p.A.,

Plaintiff,

-against-

DELLAMODA, INC.,

Defendant.

USDC SDNY
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No. 19 Civ. 5488 (CM)

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

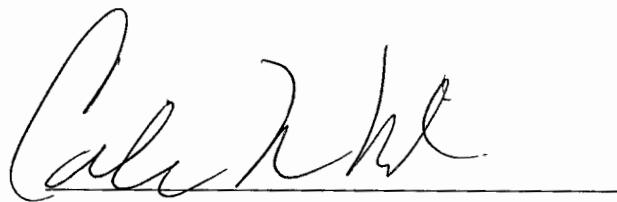
McMahon, C.J.:

Defendant Dellamoda, Inc. ("Dellamoda") moved to dismiss the complaint for lack of subject matter jurisdiction and improper venue. (Dkt. No. 6). Dellamoda noted in its papers that if venue is improper, this Court may, within its discretion, transfer the action. (*See* Dkt. No. 6-2 at 2). Although Dellamoda raised the possibility of transfer, neither Party briefed the issue. To provide the Parties an opportunity to be heard on this issue, I gave the Parties until Monday, December 23 to file additional papers to the extent they sought transfer in lieu of dismissal. (Dkt. No. 14 at 10). Neither Party filed anything.

For the reasons stated in this Court's Decision and Order at Dkt. No. 14, this Court lacks personal jurisdiction over Dellamoda, and venue is not proper in this district. Neither Party has asked this Court to transfer the case in lieu of dismissal. Accordingly, Dellamoda's motion to dismiss the complaint is granted without prejudice. The initial conference currently scheduled

for January 24, 2020 at 9:45 A.M. is canceled. The Clerk of Court is directed to terminate the open motion at Dkt. No. 6.

Dated: January 6 , 2019
New York, New York

A handwritten signature in black ink, appearing to read "Alfred E. Argall". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Chief Judge

BY ECF TO ALL PARTIES